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2003 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-AB538)**Received: **11/10/2003**Received By: **rmarchan**Wanted: **Today**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing:

This file may be shown to any legislator: **NO**Drafter: **rmarchan**

May Contact:

Addl. Drafters: **jkreye**Subject: **Econ. Development - bus. dev.**

Extra Copies:

Submit via email: **YES**Requester's email: **Sen.Kanavas@legis.state.wi.us**Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**
joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

ASA (Angel investment tax credit) to AB-538 (Qualified new business tax credit)

Instructions:

Same as LRBs0260

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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			11/10/2003 _____		11/10/2003	11/10/2003	

FE Sent For:

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State of Wisconsin
2003 - 2004 LEGISLATURE

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LRBs 020072
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Per NK

SENATE SUBSTITUTE AMENDMENT,

TO 2003 ~~SENATE BILL 261~~

AB 538

Reger

1 AN ACT *to amend* 71.05 (6) (a) 15. and 71.08 (1) (intro.); and *to create* 71.07 (5d),
2 71.10 (4) (gx) and 560.03 (25) and (26) of the statutes; **relating to:** creating a
3 qualified new business venture tax credit, facilitating the development of
4 certain investor networks, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:
6 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
7 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), and (3s), and (5d) and not passed
8 through by a partnership, limited liability company, or tax-option corporation that
9 has added that amount to the partnership's, company's, or tax-option corporation's
10 income under s. 71.21 (4) or 71.34 (1) (g).

11 SECTION 2. 71.07 (5d) of the statutes is created to read:

a purchase of an equity interest, or any other expenditure, as determined by rule by the department, that is

1 71.07 (5d) QUALIFIED NEW BUSINESS VENTURE CREDIT. (a) *Definitions.* In this

2 subsection: *bona fide*

3 1. "Angel investment" means ~~an investment~~ made by any of the following:

4 a. An individual who reviews new businesses or proposed new businesses for
5 potential investment of the individual's money.

6 b. A network of individuals who satisfy subd. 1.

7 2. "Claimant" means an individual who files a claim under this subsection.

8 3. "Qualified new business venture" means a business that is certified under
9 s. 560.03 (26).

10 (b) *Filing claims.* Subject to the limitations provided in this subsection and in
11 s. 560.03 (26), a claimant may claim as a credit against the tax imposed under s. 71.02
12 or 71.08, up to the amount of those taxes, an amount equal to 40 percent of the
13 claimant's *bona fide* angel investment made directly in a qualified new business venture in the
14 taxable year.

15 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
16 under this subsection for all taxable years combined is \$30,000,000.

17 2. The maximum amount of a claimant's investment that may be used as the
18 basis for a credit under this subsection is \$500,000 for each investment made directly
19 in a business certified under s. 560.03 (26).

20 3. For a claimant who is a nonresident or part-year resident of this state and
21 who is a single person or a married person filing a separate return, multiply the
22 credit for which the claimant is eligible under par. (b) by a fraction, the numerator
23 of which is the individual's Wisconsin adjusted gross income and the denominator of
24 which is the individual's federal adjusted gross income. If a claimant is married and
25 files a joint return, and if the claimant or the claimant's spouse, or both, are

1 nonresidents or part-year residents of this state, multiply the credit for which the
2 claimant is eligible under par. (b) by a fraction, the numerator of which is the couple's
3 joint Wisconsin adjusted gross income and the denominator of which is the couple's
4 joint federal adjusted gross income.

5 (d) *Administration.* 1. If an investment for which a claimant claims a credit
6 under par. (b) is held by the claimant for less than one year, the claimant shall pay
7 to the department, in the manner prescribed by the department, the amount of the
8 credit that the claimant received related to the investment.

9 2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies
10 to the credit under this subsection.

11 3. Subsection (9e) (d), to the extent that it applies to the credit under that
12 subsection, applies to the credit under this subsection.

13 **SECTION 3.** 71.08 (1) (intro.) of the statutes is amended to read:

14 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
15 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
16 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),
17 (6), (~~6s~~), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and
18 (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and
19 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
20 tax under this section, there is imposed on that natural person, married couple filing
21 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
22 computed as follows:

23 **SECTION 4.** 71.10 (4) (gx) of the statutes is created to read:

24 71.10 (4) (gx) Qualified new business venture credit under s. 71.07 (5d).

25 **SECTION 5.** 560.03 (25) and (26) of the statutes are created to read:

1 560.03 (25) In cooperation with the department of financial institutions and
2 the board of regents of the University of Wisconsin System, provide education and
3 other support to facilitate the development networks of ^{bona fide} angel investors, as defined
4 in s. 71.07 (5d) (a) 1. (a)

5 (26) Certify businesses as qualified new business ventures for purposes of s.
6 71.07 (5d). The department shall promulgate rules for the administration of this
7 subsection. The rules shall require a business desiring certification to submit an
8 application to the department in each taxable year for which the business desires
9 certification. The department shall maintain a list of businesses certified under this
10 subsection and shall permit public access to the list through the department's
11 Internet website. The department shall notify the department of revenue of every
12 business certified under this subsection and the date on which any such business is
13 decertified. Unless otherwise provided under the rules of the department of
14 commerce, a business may be certified under this subsection, and may maintain such
15 certification, only if the business satisfies all of the following conditions:

- 16 1. ~~(a)~~ It has its headquarters in this state.
- 17 2. ~~(b)~~ At least 51 percent of the employees employed by the business are employed
18 in this state.
- 19 3. ~~(c)~~ Its average annual net income, if any, for each of the 2 taxable years
20 immediately preceding the taxable year to which the certification applies does not
21 exceed \$5,000,000.
- 22 4. ~~(d)~~ Its net worth, in any, in the taxable year to which the certification applies
23 does not exceed \$10,000,000.

9. It has not received more than \$1,000,000 in investments that have qualified for tax credit under s. 71.07(5d).

5

or

1 ~~(e)~~ It is engaged in, or has committed to engage in, manufacturing, agriculture,
2 processing or assembling products, ^{and} conducting research and development, or
3 developing a new product or business process.

4 ~~6.~~ ~~(f)~~ It is not engaged in real estate development, insurance, banking, lending,
5 lobbying, political consulting, professional services provided by attorneys,
6 accountants, business consultants, physicians, or health care consultants, wholesale
7 or retail trade, leisure, hospitality, transportation, or construction.

8 7. ~~(g)~~ It has less than 100 employees.

9 8. ~~(h)~~ It has been in operation in this state for not more than 7 consecutive years.

10 SECTION 6. Nonstatutory provisions.

11 (1) RULES. ^(6a) The department of commerce shall submit in proposed form the rules
12 required under section 560.03 (26) of the statutes, as created by this act, to the
13 legislative council staff under section 227.15 (1) of the statutes no later than the first
14 day of the 6th month beginning after the effective date of this subsection. ^{para graph}

15 SECTION 7. Initial applicability.

16 (1) QUALIFIED NEW BUSINESS VENTURE CREDIT. The treatment of sections 71.05
17 (6) (a) 15., 71.07 (5d), 71.08 (1) (intro.), and 71.10 (4) (gx) of the statutes first applies
18 to taxable years beginning on January 1, 2006.

19 SECTION 8. Effective dates. This act takes effect on July 1, 2004, except as
20 follows:

21 (1) RULES. SECTION 6 (1) of this act takes effect on the day after publication.

22 (END) ^{under s. 71.07 (5d)}

~~(b)~~ In consultation with the department of revenue, promulgate rules to limit
the aggregate amount of tax credits that may be claimed for investments in businesses
certified under par. (a) at \$5,000,000 per taxable year. The rules may not permit
the department of commerce or the department of revenue to assign a ~~particular~~ dollar amount
of investments qualifying for the tax credits under s. 71.07 (5d) that a particular business may
subsequently raise ~~through the process of~~ ~~the process of~~

(4-13)

of commerce
the department shall

Annually, no later than September 15, submit a report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), including the number of proposed actions for which the agency conducted an assessment of whether an impact statement was required under par. (c) and the number of impact statements prepared under par. (e).

listing the total amount of tax credit claimed under s. 71.07(5d) per taxable year, the name of each business in which investments qualifying for such tax credit were made, ~~with~~ the amount of such tax credits, ~~with~~ the amount of such investments, and any other information ~~requesting~~ the department considers reasonable to include.

5-14

letter
(5) The department of revenue shall submit in proposed form the rules required under section 71.07(5d)(a) 1. of the statutes, as created by this act, to the legislative council staff under section 227.15(1) of the statutes no later than the first day of the 6th month beginning after the effective date of this paragraph.

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